

# OPEN MEETING



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ORIGINAL

MEMORANDUM  
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TO: THE COMMISSION

2009 DEC -2 P 3:43

FROM: Utilities Division

AZ CORP COMMISSION  
DOCKET CONTROL

DATE: December 2, 2009

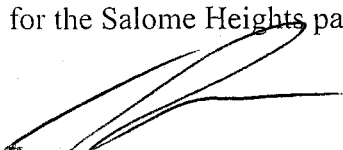
RE: IN THE MATTER OF THE APPLICATION OF KEATON DEVELOPMENT COMPANY FOR AN EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE PROVISION OF WATER SERVICE IN PORTIONS OF LA PAZ COUNTY, ARIZONA (DOCKET NO. W-02169A-07-0098)

On February 13, 2007, Keaton Development Company ("Keaton" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its existing Certificate of Convenience and Necessity ("CC&N") to provide water utility service in La Paz County, Arizona.

On February 27, 2008, the Commission issued Decision No. 70172 granting an Order Preliminary to the issuance of the CC&N upon completion of the requirements contained in Findings of Fact No. 16 in Decision No. 70172.

On October 8, 2009, the Company filed a Notice of Compliance and a Motion to Amend Decision No. 70172. In this filing, the Company stated that it had met all compliance requirements set forth in the Decision which are necessary for the issuance of the full CC&N for the Sunshine Acres parcel only. The Company requested that the Salome Heights parcel be removed due to the inability to meet compliance because of the downturn in the economy.

Based on its analysis, Staff has concluded that Keaton has complied with all the requirements set forth in the Order Preliminary for the issuance of a Final CC&N for the Sunshine Acres parcel only. Staff, therefore, recommends that the Commission issue a Final Order approving the extension of the CC&N to provide water service to the Sunshine Acres Parcel in La Paz County, Arizona. Staff further recommends that the CC&N extension request for the Salome Heights parcel be denied.

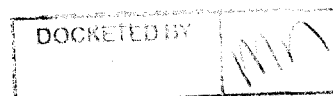
  
Steven M. Olea  
Director  
Utilities Division

EGJ:KDB:lhmrM

Originator: Kimberly Battista

Arizona Corporation Commission  
DOCKETED

DEC - 2 2009



1                               **BEFORE THE ARIZONA CORPORATION COMMISSION**

2       KRISTIN K. MAYES

          Chairman

3       GARY PIERCE

          Commissioner

4       PAUL NEWMAN

          Commissioner

5       SANDRA D. KENNEDY

          Commissioner

6       BOB STUMP

          Commissioner

7  
8       IN THE MATTER OF THE APPLICATION )  
          OF KEATON DEVELOPMENT COMPANY )  
9       FOR AN EXTENSION OF ITS        )  
          CERTIFICATE OF CONVENIENCE AND )  
10       NECESSITY FOR THE PROVISION OF )  
11       WATER SERVICE IN PORTIONS OF LA )  
          PAZ COUNTY, ARIZONA        )  
12

DOCKET NO. W-02169A-07-0098

DECISION NO. \_\_\_\_\_

**FINAL ORDER**

13  
14       Open Meeting  
          December 15 and 16, 2009  
15       Phoenix, Arizona

16       **BY THE COMMISSION:**

17               Having considered the entire record herein and being fully advised in the premises, the  
18       Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

19                               **FINDINGS OF FACT**

20               1.       On February 13, 2007, Keaton Development Company ("Keaton" or "Company")  
21       filed with the Arizona Corporation Commission ("Commission") an application for an extension of  
22       its existing Certificate of Convenience and Necessity ("CC&N") to provide water utility service in  
23       La Paz County, Arizona.

24               2.       On February 27, 2008, the Commission issued Decision No. 70172 granting an  
25       Order Preliminary to the issuance of the CC&N to Keaton upon completion of the following  
26       compliance items.

- 27                       a)   File, within three years of the effective date of the Decision, a copy of a  
28                       franchise agreement issued from La Paz County for the requested  
                      extension area;

- b) File, within three years of the effective date of this Decision, a copy of the Approval to Construct ("ATC") for Salome Heights which is to be issued by the Arizona Department of Environmental Quality ("ADEQ");
- c) File, within three years of the effective date of the Decision, a copy of the Letter of Adequate Water Supply issued by the Arizona Department of Water Resources ("ADWR");

3. On October 8, 2009, and as required by Decision No. 70172, Keaton filed a Notice of Compliance and a Motion to Amend Decision No. 70172. Attached to the Notice of Compliance were the following:

- a) A copy of the franchise agreement issued by La Paz County Board of Supervisors for the requested extension area; and
- b) A copy of the Letter of Adequate Water Supply issued by ADWR for the Sunshine Acres subdivision.

4. The Company stated that, "due to the downturns in the economy and real estate markets, it will not be prepared to proceed with development of the Salome Heights property within the time limits imposed in the Decision and that the timetable for development of Salome Heights is currently unknown". Therefore, the Company requests that all references to Salome Heights be removed and the CC&N be extended to include only the Sunshine Acres subdivision at this time.

5. The Sunshine Acres parcel is a 37 acre residential parcel being developed as a 107 lot subdivision. The subdivision is approximately one-half mile east of the Company's existing certificated area.

6. The developers will fund the cost of the transmission facilities for the Company with advances in aid of construction totaling approximately \$168,000 through main extension agreements which are approved by the Commission.

5. Based on its analysis, Staff has concluded that Keaton Development Company has complied with all requirements for the Sunshine Acres development as set forth in the Order Preliminary. Staff therefore recommends that the Commission issue a Final Order approving the

1 extension of the Company's CC&N for the Sunshine Acres development only. The revised Legal  
2 Description is attached as Exhibit A.

3 6. Staff further recommends that the CC&N extension request for the Salome Heights  
4 parcel be denied.

5 7. Staff's recommendations are reasonable and shall be adopted.

6 CONCLUSIONS OF LAW

7 1. Keaton is a public service corporation within the meaning of Article XV of the  
8 Arizona Constitution and Arizona Revised Statutes §§ 40-252, 40-281 and 40-282.

9 2. The Commission has jurisdiction over Keaton and of the subject matter of the  
10 application.

11 3. In accordance with the Order Preliminary issued pursuant to A.R.S. § 40-282(D),  
12 Keaton has complied with all conditions set forth therein for the Sunshine Acres development  
13 only.

14 4. Pursuant to A.R.S. § 40-282(D), it is appropriate to issue a Final Order.

15 ORDER

16 IT IS THEREFORE ORDERED that Keaton Development Company, Inc.'s application for  
17 issuance of a Certificate of Convenience and Necessity to provide water service to the Sunshine  
18 Acres subdivision, in the area more fully described in Exhibit A, be and hereby is approved.

19 IT IS FURTHER ORDERED that Keaton Development Company, Inc. shall charge water  
20 customers in the area described in Exhibit A its existing rates and charges until further Order by  
21 the Commission.

22 IT IS FURTHER ORDERED that Keaton Development Company, Inc. shall file, as part of  
23 its annual report, an affidavit with the Utilities Division attesting that Keaton Development  
24 Company, Inc. is current on paying its property taxes in Arizona.

25 IT IS FURTHER ORDERED that, due to the Company's inability to fully comply with the  
26 compliance requirements for the Salome Heights subdivision, the extension of the CC&N is denied  
27 for this area. All references to the Salome Heights subdivision shall be excluded from the legal  
28 description.

1 IT IS FURTHER ORDERED that if Keaton Development Company, Inc. wishes to extend  
2 its CC&N to the area formerly described as the Salome Heights subdivision, it shall file an  
3 application requesting so.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5  
6 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

7  
8  
9 CHAIRMAN

COMMISSIONER

10  
11 COMMISSIONER

COMMISSIONER

COMMISSIONER

12  
13 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
14 Executive Director of the Arizona Corporation Commission,  
15 have hereunto, set my hand and caused the official seal of  
16 this Commission to be affixed at the Capitol, in the City of  
17 Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2009.

18  
19 \_\_\_\_\_  
20 ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

21 DISSENT: \_\_\_\_\_

22  
23 DISSENT: \_\_\_\_\_

24 EGJ:KDB:lh\RM

1 SERVICE LIST FOR: KEATON DEVELOPMENT COMPANY, INC.  
2 DOCKET NO.: W-02169A-07-0098

3 Mr. William S. Scott  
4 President  
5 Keaton Development Company  
6 Post Office Box 905  
7 Salome, Arizona 85348

8 Mr. Steven M. Olea  
9 Director, Utilities Division  
10 Arizona Corporation Commission  
11 1200 West Washington Street  
12 Phoenix, Arizona 85007

13 Ms. Janice M. Alward  
14 Chief, Legal Division  
15 Arizona Corporation Commission  
16 1200 West Washington Street  
17 Phoenix, Arizona 85007  
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EXHIBIT A

**LEGAL DESCRIPTION – SUNSHINE ACRES**

The South 613.77 feet of the North 913.77 feet of the  
Northeast Quarter of Section 27, Township 5 North,  
Range 13 West of the G&SRB&M, La Paz, Arizona.